

UNITED STATES DISTRICT COURT OF THE  
SOUTHERN DISTRICT OF NEW YORK

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CENTURY SURETY COMPANY,

Plaintiff,

-against-

Case No.: 13 Civ. 3962 (JMF)

PINNACLE RESTORATION, LLC, 325 MAIN  
STREET OWNERS CORP., DELTA RESTORATION  
LLC AND CESAR CARBAJAL,

Defendants.

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**DEFENDANT PINNACLE RESTORATION, LTD'S  
INITIAL RULE 26 DISCLOSURES**

Defendant Pinnacle Restoration, Ltd. s/h/a Pinnacle Restoration, LLC ("Pinnacle") by its attorneys, Alonso, Andalkar, Small & Facher, P.C., pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, and without prejudice to its rights to supplement and/or amend and/or correct such disclosures as it learns additional and/or different information as a result of discovery in this action and/or otherwise, hereby sets forth its Initial Disclosures as follows:

**GENERAL STATEMENT**

Pursuant to Federal Rule of Civil Procedure 26(e), Pinnacle reserves the right to amend, clarify or supplement these disclosures based on additional information learned through discovery or other means.

Pinnacle construes the requirements of Rule 26(a) not to require production or description of any information or documents protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege. Pinnacle intends to and does assert privilege with respect to all such information and documents, and inadvertent disclosure shall not constitute a waiver of any such privilege.

Pinnacle's investigation into the subject matter of these disclosures continues. Pinnacle's production of anything, document or information is not, and shall not be construed as, an

admission of the relevance or admissibility into evidence of any such thing, document or information disclosed, and Pinnacle reserves any other applicable objections it may have, including but not limited to objections based on attorney-client privilege, the attorney work product doctrine, undue burden and confidentiality.

In providing these disclosures, Pinnacle does not waive or intend to waive, but rather intends to preserve and does preserve: (a) its right to revise and/or supplement these responses; (b) all objections to competency, relevance, materiality and admissibility of the responses, the subject matter thereof and all documents in defendant's possession; and (c) all rights to object on any ground to the use of such documents or responses, or the subject matter thereof, in any subsequent proceeding.

#### PINNACLE'S DISCLOSURES

##### **A. Persons Likely to Have Discoverable Information (Fed. R. Civ. P. 26(a)(1)(A))**

Upon information and belief, the following individuals are likely to have discoverable information that may be used to support Pinnacle's claims:

1. Ed Erhard, III – Pinnacle Restoration, Ltd., 70-09 73rd Place, Glendale, New York 11385. Mr. Erhard has knowledge of the day-to-day operations at Pinnacle and is able to attest to the counterclaims in Pinnacle's Answer, including but not limited to defenses to the allegations in the Complaint.
2. Lauren Pugliese – Pinnacle Restoration, Ltd., 70-09 73rd Place, Glendale, New York 11385. Ms. Pugliese is an administrative assistant at Pinnacle.
3. Susan M. Weller – Century Insurance Group, 465 North Cleveland Avenue, Westerville, Ohio 43082. Ms. Weller is the assigned Litigation Specialist at Century Insurance Group. She is believed to have knowledge of Pinnacle Restoration, Ltd.'s insurance policy and facts surrounding the insurance claim at issue.
4. Anthony Rios - Delta Restoration, LLC, 4715 72nd Street, Woodside, New York 11377 ("Delta"). Upon information and belief, Mr. Rios has information and documentation regarding the relationship between Carbajal, Delta and Pinnacle in connection with the work, labor and services performed at the Premises.
5. Edwin Rios - Delta Restoration, LLC, 4715 72nd Street, Woodside, New York 11377. Upon information and belief, he has information and documentation

regarding the relationship between Carbajal, Delta and Pinnacle in connection with the work, labor and services performed at the Premises.

6. Cesar Carbajal, 39-12 56th Street, 1<sup>st</sup> Floor, Woodside, New York 11377. It is believed that Mr. Carbajal has information and documentation regarding the relationship between Carbajal, Delta and Pinnacle in connection with the work, labor and services that he performed at the Premises.
7. Allan Freeman – Allen Freeman Insurance Agency, 135 Green Street, Woodbridge, New Jersey 07095. Mr. Freeman is Pinnacle Restoration, Ltd.'s insurance broker. Upon information and belief, he has knowledge of the negotiation and execution of the insurance policy at issue.
8. Donna Hentschel - 325 Main Street Owners Corp., 5683 Riverdale Avenue, Riverdale, New York 10471. Upon information and belief, Ms. Hentschel is the principal of 325 Main Street Owners Corp. She is believed to have knowledge of the scope of the work at the Premises.
9. Peter Kaye – Kaye-Levick Realty, 12 East End Avenue, New York, New York 10021. Mr. Kaye is believed to have knowledge of the scope of the work at the Premises.

Pinnacle, until trial, reserves the right to identify other individuals as well as the right to identify each of the above individuals for topics or purposes other than those listed.

**B. Documents, Information and Tangible Things (Fed. R. Civ. P. 26(a)(1)(B))**

Pinnacle will make available those non-privileged, relevant documents that are in Pinnacle's possession, custody, or control, and that tend to support Pinnacle's position in this action. In particular and upon advance request, Pinnacle will make available copies of the following:

1. Documents prepared in connection with the construction project at 325 Main Street, White Plains, New York (the "Premises").
2. Certificates of Liability Insurance issued in connection the work performed at the Premises.
3. Documents filed with the Workers' Compensation Board relating to Mr. Carbajal's claims in connection with his alleged injuries during the course of his employment, while performing work, labor and services at the Premises.

4. Testimony transcripts and documents used as exhibits in discovery by any party in this case and/or the underlying action captioned *Cesar Carbajal v. 325 Main Street Owners Corp., and Pinnacle Restoration, Ltd.* bearing the Index Number 304962/12 (“Bronx Action”), including exhibits to depositions taken in this case and/or Bronx Action.
5. Correspondence between Pinnacle and Century Insurance Group and/or Century Surety Company in connection with Pinnacle’s insurance policy and the Bronx Action.
6. Correspondence between Main Street Owners Corp. in connection with the Bronx Action.
7. Correspondence between Allen Freeman and/or Allen Freeman Insurance Agency and Pinnacle in connection with Pinnacle’s insurance policy, the construction project at the Premises and the Bronx Action.

**C. Computation of Damages (Fed. R. Civ. P. 26(a)(1)(C))**

A computation of any category of damage claimed by Pinnacle, and identification and tender for inspection and copying of documents or other evidentiary material not privileged or protected from disclosure, presently known to Pinnacle, on which such calculation is based:

Not applicable.

**D. Applicable Insurance Agreements (Fed. R. Civ. P. 26(a)(1)(D))**

An identification for inspection of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Pinnacle’s policy of insurance with Century Surety Company, policy number CCP 743045.

**ALONSO, ANDALKAR,  
SMALL & FACHER, P.C.**

By: /s/ Manoj Andalkar  
Manoj R. Andalkar [MA-7087]

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CENTURY SURETY COMPANY,

Plaintiff,

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-against-

**CERTIFICATE OF SERVICE**

PINNACLE RESTORATION, LLC, 325 MAIN  
STREET OWNERS CORP., DELTA RESTORATION  
LLC AND CESAR CARBAJAL,

Defendants.

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I hereby certify that on October 31, 2013, I served Defendant Pinnacle Restoration, LLC's Rule  
26(a) Initial Disclosures via the CM/ECF filing system, upon:

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Dated: October 31, 2013  
New York, New York

**ALONSO, ANDALKAR,  
SMALL & FACHER, P.C.**

By: /s/ Manoj Andalkar  
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